



10-22-03

1639-

Practitioner's Docket No. 1012.123D2(99-90DIV2)

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Damian A. Hajduk

Application No.: 09/779,149

Group No.: 1639

Filed: 02/08/2001

Examiner: Tomas Friend

For: INSTRUMENT FOR HIGH THROUGHPUT MEASUREMENT OF MATERIAL PHYSICAL PROPERTIES AND METHOD ON USING SAME

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

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AMENDMENT TRANSMITTAL

Transmitted herewith are the following:

1. Notice of Non-Compliant Amendment (37 CFR 1.121)
2. Amendments to the Claims
3. The fee for claims (37 C.F.R. 1.16(b)-(d)) has been calculated as shown below:

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**CERTIFICATION UNDER 37 C.F.R. §§ 1.8(a) and 1.10\***

*(When using Express Mail, the Express Mail label number is mandatory;  
Express Mail certification is optional.)*

I hereby certify that, on the date shown below, this correspondence is being:

MAILING

deposited with the United States Postal Service in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

37 C.F.R. § 1.8(a)

with sufficient postage as first class mail.

37 C.F.R. § 1.10\*

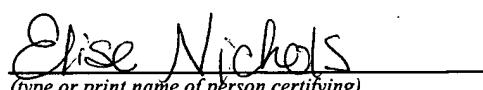
as "Express Mail Post Office to Addressee"  
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TRANSMISSION

facsimile transmitted to the Patent and Trademark Office, (703) \_\_\_\_\_

  
Signature

Date: 10/21/03

  
Elise Nichols  
(type or print name of person certifying)

\* Only the date of filing ('1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under '1.8 continues to be taken into account in determining timeliness. See '1.703(f). Consider "Express Mail Post Office to Addressee" ('1.10) or facsimile transmission ('1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.

| (Col. 1)                                 | (Col. 2) | (Col. 3)   | OTHER THAN A SMALL ENTITY |
|--|----------|------------|---------------------------|
| CLAIMS<br>REMAINING<br>AFTER HIGHEST NO. |          |            |                           |
| AMENDMEN PREVIOUSLY<br>T PAID FOR        |          |            |                           |
| PRESENT<br>EXTRA                         |          |            |                           |
|  |          | RATE       | ADDIT.<br>FEE             |
|  |          | x          |                           |
| TOTAL                                    | 7        | - 20 = 0   | \$ 18.00 = \$ 0.00        |
| INDEP.                                   | 1        | - 3 = 0    | \$ 84.00 = \$ 0.00        |
| FIRST PRESENTATION OF MULTIPLE DEP.      |          |            |                           |
| CLAIM                                    |          | \$ 0.00    | = \$ 0.00                 |
|  |          | TOTAL      |                           |
|  |          | ADDIT. FEE | \$ 0.00                   |

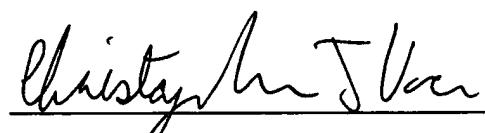
No additional fee for claims is required.

#### FEE DEFICIENCY

7. If an additional extension and/or fee is required, charge Account No. 50-0496.

If an additional fee for claims is required, charge Account No. 50-0496.

Date: 10/17/03



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# UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND  
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE  
WASHINGTON, DC 20231  
www.uspto.gov

Paper No. *✓/JW*

## Notice of Non-Compliant Amendment (37 CFR 1.121)

The amendment document filed on 9-15-03 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121, as amended on June 30, 2003 (see 68 Fed. Reg. 38611, Jun. 30, 2003). In order for the amendment document to be compliant, correction of the following omission(s) or provision is required. **Only the section (1.121(h)) of the amendment document containing the omission or non-compliant provision must be resubmitted (in its entirety), e.g., the entire "Amendments to the claims" section of applicant's amendment document must be re-submitted.**

THE FOLLOWING CHECKED (X) ELEMENTS(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- 1. Amendments to the specification:
  - A. Amended paragraph(s) do not include markings.
  - B. New paragraph(s) should not be underlined.
  - C. Other \_\_\_\_\_
- 2. Abstract:
  - A. Not presented on a separate sheet. 37 CFR 1.72.
  - B. Other \_\_\_\_\_
- 3. Amendments to the drawings: \_\_\_\_\_
- 4. Amendments to the claims:
  - A. A complete listing of all of the claims is not present.
  - B. The listing of claims does not include the text of all claims (incl. withdrawn claims)
  - C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified.
  - D. The claims of this amendment paper have not been presented in ascending numerical order.
  - E. Other: \_\_\_\_\_

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For further explanation of the amendment format required by 37 CFR 1.121, see MPEP Sec. 714 and the USPTO website at <http://www.uspto.gov/web/offices/pac/dapp/opla/preognitice/officeflyer.pdf>.

If the non-compliant amendment is a **PRELIMINARY AMENDMENT**, applicant is given ONE MONTH from the mail date of this letter to supply the corrected section which complies with 37 CFR 1.121. Failure to comply with 37 CFR 1.121 will result in ~~non-entry-of-the-preliminary-amendment-and-examination-on-the-merits-will-commence-without-consideration-of-the-proposed~~ changes in the preliminary amendment(s). This notice is not an action under 35 U.S.C. 132, and this **ONE MONTH** time limit is **not extendable**.

If the non-compliant amendment is a reply to a **NON-FINAL OFFICE ACTION**, and since the amendment appears to be a *bona fide* attempt to be a reply (37 CFR 1.135(c)), applicant is given a **TIME PERIOD** of ONE MONTH from the mailing of this notice within which to re-submit the corrected section which complies with 37 CFR 1.121 in order to avoid abandonment. **EXTENSIONS OF THIS TIME PERIOD ARE AVAILABLE UNDER 37 CFR 1.136(a).**

If the amendment is a reply to a **FINAL REJECTION**, this form may be an attachment to an **Advisory Action**. **The period for response to a final rejection continues to run from the date set in the final rejection**, and is not affected by the non-compliant status of the amendment.

*Dina DiOrio*  
Legal Instruments Examiner (LIE)



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**RESPONSE AND AMENDMENT**

In response to the Notice of Non-Compliant Amendment mailed October 8, 2003, please find enclosed a complete set of claims as pending.